

1. Call to Order

Mayor Jenny Halverson called the meeting to order at 6:30 p.m.

2. Roll Call

Present: Mayor Jenny Halverson and Councilmembers Bob Pace, Anthony Fernandez, Dick Vitelli, Dave Napier, Ed Iago and John Bellows.

Others: City Manager Ryan Schroder, Assistant City Manager Sherrie Le, Finance Director Joan Carlson, Public Works and Parks Director Ross Beckwith, Community Development Director Jim Hartshorn, City Attorney Korine Land, Police Chief Manila Shaver and City Clerk Chantal Doriott.

3. Pledge of Allegiance

4. Adopt the Agenda

Motion was made by Clpn. Iago and seconded by Clpn. Vitelli to adopt the agenda as presented. All members present voted aye. Motion carried.

5. OCWS Briefing

The Council discussed the following items and issues at the open council work session held prior to this meeting (these are open to the public):

- Charter Commission amendments
- 2018 fee schedule
- City Code amendments
- Mission and Vision statements and Council initiatives
- City hall roof and HVAC system repairs

6. Citizen Comments

No one present wished to speak.

7. Council Comments

Clpn. Fernandez gave thanks to those who came out to 210 Logan to help clean up; Clpn. Bellows, Police Chief Shaver and Manager Schroeder were there; and City staff had done work the previous day. People throughout West St. Paul came out to help. We are hoping to find some good neighbors. Also on that weekend, he did a ride along and it was a tense day. He commends Police Chief Shaver and his police officers for what they do every day in West St. Paul. He is very proud to be a Councilmember and resident of this community.

Clpn. Napier attended the library bike rodeo and there was a strong outpouring of community members. This is a great event and he would like to see more of the same. Special thanks to the Kohl's store employees.

Clpn. Iago offered thanks to all for taking all the heavy stuff while he was out of town. Clpn. Iago had a visit from one of his neighbors who received care from South Metro Fire Department. They are amazed at the police and fire departments who offer such great care.

Clpn. Bellows said he wanted to speak about 2 articles in the paper. He appreciates West St. Paul residents who have shown the spirit of community first for 210 Logan. The second item is about a West St. Paul family in Ward 3. The husband and wife were very involved in coaching girls' soccer and other civic activities. Unfortunately, John Sylvester contacted ALS and he passed last week. Mr. Sylvester and his wife have 2 kids. It was recently learned that Mrs. Sylvester has cancer. They are in a difficult situation with their 2 small children. There is a fundraising campaign at *Go Fund Me*. This is a chance to help someone in our community.

Mayor Halverson will make comment after the Proclamations and Donations are considered.

8. Proclamations, Presentations and Recognitions

A. Finance Director's - Thank You & Welcome

Manager Ryan Schroeder informed all that our Finance Director Joan Carlson is retiring and we express our appreciation for her work with the city. We will miss her. We have been fortunate to find Char Stark who comes from North St. Paul and also worked in Hastings. She is familiar with Dakota County. Her first day was today. Welcome to Char and thank you to Joan said the Mayor and Councilmembers. Clpn. Napier said to Joan - you have done a great job and your work is appreciated.

B. Anchor Bank Proclamation

Mayor Jenny Halverson read the attached proclamation on behalf of the City of West St. Paul. Anchor Bank has been an asset to the Community of West St. Paul and we are proud to have this

business here. West St. Paul City Council proclaims June 26th as Anchor Bank Day. Anchor Bank CEO Jeff Hawkins thanked everyone and accepted the award.

C. Accept Canine Program Donation

Police Chief Shaver gave an overview of the canine donation the Police Department has received in the amount of \$100. The donation came from one of our chaplains, Butch "Chap" Millett. This is not the first time Chap has supported our canine program. The police department is certainly grateful for Chap's generosity and his efforts with our Chaplain program.

Motion was made by Clpn. Bellows and seconded by Clpn. Pace to approve and adopt Resolution 17-45 accepting the \$100.00 donation as presented from Butch Millett. All members present voted aye. Motion carried.

Mayor Halverson gave a heartfelt speech about her sister Andrea Sylvester who is battling cancer. Andrea recently lost her husband to Lou Gehrig's disease. The family appreciates all the prayers and donations and asks for continued support.

9. Consent Agenda

- A. List of Claims
- B. Rental Licensing
- C. City Licensing
- D. Resolution No. 17-43 Renewal of the Driving Diversion Program Agreement
- E. May 2017 Financial Reports
- F. Resolution No. 17-44 Amendment to G.S. Pay Plan Resolution for Project Engineer
- G. Resolution 17-42 Accepting the Robert St. Renaissance Plan Update (non-binding but rather a tool for staff and others to consider)
- H. Approve Change Order to Consultant Contract for Sports Complex Project 17-6

Motion was made by Clpn. Iago and seconded by Clpn. Vitelli to approve the consent agenda items as listed above and presented. All members present voted aye. Motion carried.

10. Public Hearing

A. Final Reading - Zoning Ordinance Amendment, Sections 153.004 & 153.188 Regarding Automotive Detailing in the B4 District

Community Development Director Jim Hartshorn gave an overview. As discussed at the May 8 OCWS, staff has drafted an ordinance to allow Automotive Detailing in the B4, Shopping Center District through a Conditional Use Permit. The draft amendment includes the addition of a definition for Automotive Detailing in Section 153.004 and requiring that the setback be a

minimum of 400 feet from Robert St. and that the operation not front Robert St. A map showing where other auto detailing businesses could locate in B4 Districts, based on the proposed 400 foot setback from Robert Street, was also reviewed.

There were no Councilmember comments.

The public hearing opened at 7:01 p.m.

No one wished to speak.

The public hearing closed at 7:01 p.m.

Motion was made by Clpn. Vitelli and seconded by Clpn. Fernandez to approve the final reading and adopt Ordinance No. 17-07 amending sections 153.004 and 153.188 of the City Code. All members present voted aye. Motion carried.

B. Application for a Conditional Use Permit to allow an Adult Day Care facility in a I1, Light Industrial District at 1635 Marthaler Lane - DARTS

Community Development Director Jim Hartshorn gave an overview of the Conditional Use Permit for DARTS. DARTS is asking to allow an Adult Day Care in an I1, Light Industrial District at 1635 Marthaler Lane.

The applicant is proposing to re-purpose a portion (3,500 sq. ft.) of the southern part of the existing DARTS transportation building (1635 Marthaler Ln) into an adult daycare center. According to the applicant, this will establish a place for 55+ individuals to be part of a community, by engaging in activities such as field trips, board games, arts and crafts, exercise, etc. Such activities are aimed to help decrease and / or eliminate depression and teach practices on controlling illnesses such as hypertension and various forms of dementia.

There were no Councilmember comments.

The Public hearing opened at 7:04 p.m.

No one wished to speak.

The public hearing closed at 7:04 p.m.

Motion was made by Clpn. Fernandez and seconded by Clpn. Napier to approve the Conditional Use Permit for DARTS with the two conditions as outlined in the Council report and as presented and outlined in Resolution No. 17-. All members present voted aye. Motion carried.

11. New Business

A. First Reading - Zoning Ordinance Amendment, Multiple Sections regarding Interim Use Permits – City of West St. Paul

Community Development Director Jim Hartshorn gave an overview. Staff reviewed past IUP applications and discovered a discrepancy with how previous applications were categorized based on the existing language. The B4 District currently allows the following types of Interim Use Permits:

- 1) Farmers market for the sale of agricultural and horticultural products (*allowed in B1-B6*)
- 2) Outdoor sale of fireworks, provided that it meets the conditions outlined in § 153.172 and National Fire Protection Association standards, as required by the Fire Marshal (*only allowed in the B4*)
- 3) Indoor sale of fireworks not in conjunction with an existing use, provided that it meets National Fire Protection Association standards, as required by the Fire Marshal (*only allowed in the B4*)
- 4) Food stands, provided that they meet the conditions outlined in § 153.172. This section does not apply to food stands that are part of city sponsored events or events lasting three days or less (*only allowed in the B4*)
- 5) Outdoor display of seasonal merchandise, provided that it meets the conditions as outlined in § 153.172 and that items displayed are sold within the store located on the property (*only allowed in the B4*)

With past applications, staff categorized the sale of plants under Farmers Market, specifically for the “sale of horticultural products”. However, the intent of the Farmers Market category was specifically for farmers markets, i.e. the Farmers Market at Signal Hills, not for the seasonal sale of plants similar to what was proposed at Cub Foods. The sale of plants should be categorized under the last category listed above which is outdoor display of seasonal merchandise. If properly categorized, the previous request would not have been allowed as the language requires that all items displayed and sold are from the store located on the property (i.e. no third party).

As a result, staff is recommending the attached ordinance amendment to further clarify the intent of the two categories which includes the following changes:

- 1) Add the definition of Farmers Market (to help distinguish the difference between the two categories)
- 2) Add language that Farmers Markets must sell locally grown products
- 3) Revise the language for outdoor display of seasonal merchandise by stating that “the applicant sells the items displayed within its own store located on the property”

Comments:

- Clpn. Bellows asked for clarification of item 5.
- Clpn. Fernandez asked about Cub Foods and the Dairy Queen who have winter tree sales. They will continue to have these sales.

Motion was made by Clpn. Napier and seconded by Clpn. Fernandez to approve the first reading of an ordinance amending sections 153.004 and 153.189 as presented. A public hearing will be held in July. All members present voted aye. Motion carried.

B. City Alcohol License Sanctions

Police Chief Manila Shaver gave an overview of compliance checks that the police dept. held in April. There were 28 compliance checks and unfortunately we had one failure at Chipotle. The report will be part of the record as asked for by Police Chief Shaver.

The general manager of Chipotle spoke and apologized for failing their compliance check. They have training in place for their employees. The next session will be held on July 12th.

Clpn. Vitelli asked about the gross misdemeanor charge for selling alcohol to a minor. This is a serious charge for a serious crime and Chief Shaver stand behind this. The person who sold the alcohol had verbal training. She failed the manager double check.

Clpn. Napier said our system is working and he thanked Chief Shaver and his crew for their work.

Motion was made by Clpn. Napier and seconded by Clpn. Iago to approve and adopt Resolution No. 17-46 imposing sanctions upon retail Intoxicating Liquor License holder Chipotle Mexican Grill of Colorado as presented. All members present voted aye. Motion carried.

Police Chief Shaver gave an overview of several police reports to Morelo's Mexican Restaurant. It seems that Morelo's has been serving intoxicating liquor and does not hold that type of liquor license. They are also keeping their establishment open after 2:00 a.m. There is also drug activity taking place on site. These issues have been investigated by our police dept.

One of the Morelo's business owners, Rosa Sanchez, was in attendance. Speaking and translating for her was her niece Emma Escovar.

Emma Escovar said one main concern is comments the business and owners have received via social media about their restaurant. The comments are affecting them right now. Council explained that social media is not an avenue that they address and Rosa and Emma should address the comments themselves. It will be better received by the public.

Emma explained that they are sorry about the illegal activities. She said Rosa Sanchez did not know about the selling of alcohol and drugs as she was always in the back cooking. She did not know about these things that were going on. They do not want the restaurant to close.

Council comments:

- Clpn. Fernandez said moving forward with your restaurant and not being able to serve wine or beer - how will that impact you? Rosa believes her food and promotion will be enough to keep the restaurant a success. It was noted that she and Juan Cruz are the

business owners. Juan Cruz is currently not available. They have a 5 year lease with 3 years remaining. Police Chief Shaver explained that after a certain period of time Rosa or someone else can apply for a liquor license for this business. Rosa could apply for her own license. There needs to be a break where there is no alcohol served, no karaoke and no music. Rosa indicated she understands.

- Clpn. Iago asked if Rosa had read the long list of findings, facts and conclusion. Yes, said Emma. He finds it impossible that she was unaware that intoxicating alcohol was being served. Clpn. Iago asked about hours. Rosa said the new restaurant hours are 8:00 a.m. to 10:00 p.m. Clpn. Iago is in favor of keeping the restaurant open and removing the liquor license. He added that drugs and this type of activity must stop. If he hears of another report of selling alcohol or drugs he will ask to have the business license removed.
- Clpn. Vitelli reiterated what Clpn. Iago said and he supports no alcohol sales. He is in favor of the restaurant only. He feels 8:00 p.m. would be a sufficient closing time. Attorney Land said we are here to consider the liquor license.
- Clpn. Bellows said the illegal activity is disappointing because the food is fantastic. He agrees the liquor license needs to be removed. At a future time Rosa or someone else can apply for a beer and wine license. He supports the recommendation being made to revoke the beer and wine license. He wants to make sure there needs to be some space between the time the license is pulled and the time it might be applied for. There needs to be sufficient "down time" so the illegal activity stops completely.
- Clpn. Pace said if there is a reoccurring offense he would support pulling the business license.

Motion was made by Clpn. Pace and seconded by Clpn. Iago to approve and adopt Resolution No. 17-47 imposing sanctions on retail Intoxicating Liquor license holder Morelo's Mexican Restaurant as presented. All members present voted aye. Motion carried.

12. Old Business

A. Approve Change Order for Lift Stations 5 & 6 Project #16-2

Public Works and Parks Director Ross Beckwith gave an overview. As part of the City's Lift Station 5 & 6 and forcemain replacement project changes were encountered in the field. As a result, change orders are required.

There is a fluctuating power issue at the newly constructed lift station 6 (Smith Ave./Ruby Dr.). We've met a many times with Xcel to troubleshoot the situation. We continue to get power spikes and sags which trip the entire station off (even the generator) requiring staff to come in anytime day or night to reset the system. We are averaging 3 times per month, but the summer seems to be worse than winter. The problem has been pinpointed down to not having 480V power running to the station. The station currently runs on 240V power. Xcel doesn't have 480V power in the immediate neighborhood as it's an older neighborhood. The other newly constructed lift station 6 operates on 480V power and runs perfectly.

In order to get 480V power, Xcel Energy needs to run it in form Delaware Avenue. There are also modifications which need to be made to the new lift station and generator to be able to

receive and process the 480V power. We've been watching this and testing the system for over eight months and believe this is the correct solution to allow this lift station to run properly for decades to come.

The funds to pay for this will come from the City's CIP but an additional \$100,000 is needed. Staff is asking Council for this consideration.

Clpn. Vitelli said he spoke with director Beckwith about this and we need to have clean power and this needs to be done.

Motion was made by Clpn. Vitelli and seconded by Clpn. Bellows to approve this additional work for Lift Station 6 in the amount of \$100,000 for the Lift Station 5 & 6 Project #16-2 as presented. All members present voted aye. Motion carried.

B. Call Final Assessment Hearing for the 2016-2017 Robert St. Sidewalk Cleaning

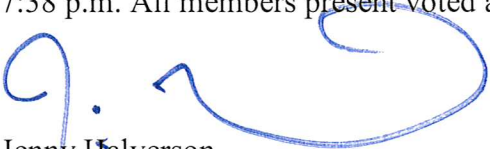
Public Works and Parks Director Ross Beckwith gave an overview. Assessment rolls have been prepared for the Robert Street Sidewalk Cleaning work done during the 2016-2017 winter season (Butler Ave. to Mendota Road). The total cost of the work for this past winter season was \$39,542.80 with an assessment rate of \$2.15 per front foot. Council is requested to call the assessment hearing for the 2016-2017 Robert Street Sidewalk Cleaning for July 24, 2017.

Per state statute, the City Council must call the assessment hearing and publish the hearing date at least two weeks before the assessment hearing. Staff intends to publish the notice in the July 9, 2017 edition of the South West Review.

Motion was made by Clpn. Napier and seconded by Clpn. Fernandez to set the final assessment hearing date on the 2016-2017 Robert Street Sidewalk Cleaning for July 24, 2017. All members present voted aye. Motion carried.

13. Adjourn

Motion was made by Clpn. Fernandez and seconded by Clpn. Bellows to adjourn the meeting at 7:38 p.m. All members present voted aye. Motion carried.



Jenny Halverson
Mayor
City of West St. Paul

**CITY OF WEST ST. PAUL
RESOLUTION NO. 17-42**

**RESOLUTION ACCEPTING THE
CITY OF WEST ST. PAUL 2017 RENAISSANCE
PLAN UPDATE**

WHEREAS, in 2014 the City of West St. Paul issued a Request for Proposals (RFP) to update the 2001 Robert St. Renaissance Plan; and

WHEREAS, the City of West St. Paul entered into a contract with Cuningham Group on November 14, 2014 for the development of an update to the 2001 Robert St. Renaissance Plan; and

WHEREAS, on January 26, 2015, the City of West St. Paul approved the formation of a Project Advisory Committee (PAC), consisting of local residents, business owners, land owners, and professional to assist with the development of the plan; and

WHEREAS, between February of 2015 and April of 2016, the PAC met a total five times in assisting with the development of the plan; and

WHEREAS, on November 10, 2016 the PAC met with the City Council and the Planning Commission in a joint work session to discuss the draft plan and provide further comment; and

WHEREAS, public open houses were held on March 4, 2015 and July 8, 2015 to gather public input; and

WHEREAS, the City Council was provided updates throughout the process, including review of the draft plan; and

WHEREAS, the Planning Commission reviewed the draft plan on three occasion between January and March of 2017; and

WHEREAS, on March 21, 2017, the Planning Commission recommended approval of the plan update with recommended revisions; and

WHEREAS, on April 24, 2017, the West St. Paul City Council reviewed the draft plan; and recommended the revisions as proposed by the Planning Commission be implemented into the Plan; and

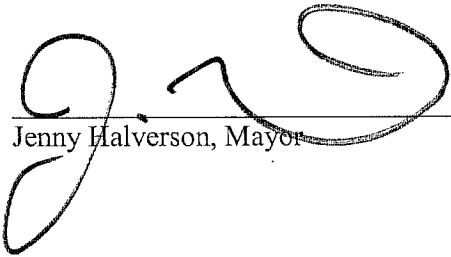
WHEREAS, on June 12, 2017, the West St. Paul City Council recommended that the plan be placed on a future Council agenda for acceptance.

NOW THEREFORE BE IT RESOLVED that the City Council hereby accepts the 2017 Renaissance Plan Update dated June 12, 2017;

NOW THEREFORE BE IT FURTHER RESOLVED that the City Council is not bound to implement the recommendations in the Plan, but the Plan will serve as a resource for the 2017 Comprehensive Plan Update, for future redevelopment projects and to assist the City Council in making policy decisions.

Adopted by the City Council of the City of West St. Paul this 26th day of June, 2017.

Ayes: 6 Nays: 0



Jenny Halverson, Mayor

Attest:



Chantal Doriott, City Clerk

On Motion of Clpn. Vitelli

Seconded by Clpn. Bellows

RESOLUTION NO. 17-43

RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT

BE IT RESOLVED, that the City of West St. Paul will enter into a cooperative agreement with the State of Minnesota and Diversion Solutions, LLC.

WHEREAS, The City has a desire to assist revoked drivers in offering a program to help revoked drivers reinstate their driving privileges;

WHEREAS, on July 1, 2009, the Minnesota Legislators established a pilot program entitled the License Reinstatement Diversion Program to provide a path to assist revoked drivers in reinstating their driving privileges while complying with their legal obligations in paying fines and operating a vehicle on Minnesota's roadways;

WHEREAS, The City has participated in this pilot program since July 1, 2009;

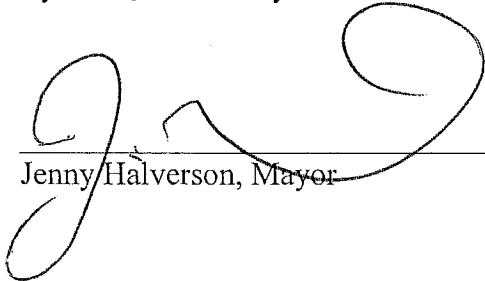
WHEREAS, the original License Reinstatement Diversion Program agreement will expire on June 30, 2017;

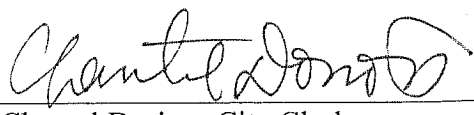
NOW, THEREFORE, The Parties hereby agree to continue to provide assistance to each other upon the terms and conditions set forth in the attached agreement.

City Manager Ryan Schroeder is hereby authorized to execute such agreements and amendments, as are necessary to implement the project on behalf of the City of West St. Paul.

Adopted by the City Council of the City of West St. Paul on this 26th day of June, 2017.

Ayes: 6 Nays: 0 Attest:


Jenny Halverson, Mayor


Chantal Doriott, City Clerk

DRIVING DIVERSION PROGRAM

SERVICES AGREEMENT

FOR THE

CITY OF WEST ST. PAUL

1. **Contractual Agreement** - This Agreement is made and entered into this ____ day of _____, 2017, by and between the City of West St. Paul, State of Minnesota, by and through its City Attorney's Office, ("City") and Diversion Solutions, LLC, of 415 Main Street, Red Wing, Minnesota 55066.

2. **Purpose** – The purpose of this Agreement shall be to implement a Driving Diversion Pilot Program for the City as written in MN Section 1. Laws 2009, chapter 59, article 3, section 4, as amended by Laws 2010, chapter 197, section 1, is amended to read:

<u>Sec. 4. LICENSE REINSTATEMENT DIVERSION PILOT PROGRAM.</u>	"EXHIBIT A"
CHAPTER 87--H.F.No. 387 pilot extension	"EXHIBIT B"
CHAPTER 127--S.F.No. 1270 pilot extension	"EXHIBIT C"
NINETIETH SESSION H.F. No. 470 pilot Extension	"EXHIBIT D"

3. **Contract Terms** - This Agreement shall be in force until June 30, 2019. Termination provisions of this Agreement are provided in Section 10.

4. **Definitions:**
 - A. ***Participant*** – the individual who has enrolled in the Driving Diversion Program voluntarily as part of City diversion program or has otherwise been ordered by the Court to complete the program.
 - B. ***Restitution Recovery*** – Fines, reinstatement fees, and diversion fees payable by a Participant.
 - C. ***Education Class Fees*** – The fee associated solely with the training classes the Participant attends as part of their diversion agreement.

5. **City Duties** – The following is needed for the implementation of the Program:
 - A. Designee will conduct, as needed, meetings with key Diversion Solutions staff to offer procedural guidance, evaluate program performance, and provide support and direction.

6. **Diversion Solutions Duties** - Diversion Solutions will provide the following services to the City in a timely and efficient manner:
 - A. Operation and management of a driver's license diversion program for Participants who would otherwise be involved in the court legal system.
 - B. Perform daily operations and management of all clerical and accounting functions related to individual Participant files.
 - C. Manage the collection and disbursement of Restitution Recovery Fees, Diversion Solutions Education Class Fees, and other fees as appropriate.
 - D. Provide necessary responses, correspondence, and follow-up of telephone inquiries to address issues or questions of Participants.
 - E. Properly maintain all physical files, financial records, documentation, reports, computer files, etc. as required by law or requested by the City.
 - F. Conduct classes designed to teach and provide meaningful information and lessons to Participants on licensure, criminal consequences, and other appropriate topics.
 - G. Schedule and conduct all classes necessary for the program, which shall include but not be limited to development of curriculum, provision of appropriate materials, and provision of appropriate space/locations for the classes.

Reports: Maintain and provide records to the City as defined in Exhibit D, including the Legislative Report.

7. Program Operational Fees/Revenue:

Participant Fees

- | | | |
|----|-------------------------|---|
| A. | Program | \$350 |
| B. | Failure to attend class | \$20. reschedule fee |
| C. | Reentry if FMR 90 | \$25 (accepted did not start program) |
| D. | Reentry if FMR 2 | \$150
(post class citation, failure to make payment
attorney/judge reentry) |
| E. | CC processing fee | \$5 per transaction |

Fee Division: For each program fee paid in full, \$100.00 of the fee will be paid to City and \$250.00 will be retained by Diversion Solutions.

8. Non-Compete – During the term of this agreement, the City shall not establish a competing program or any other similar program that addresses driver's license diversions.

9. City has no Financial Liability - It is understood and agreed by and between the parties that Diversion Solutions will bear all financial liability for all aspects of its operations under this Agreement.

10. Termination of this Agreement:

- A. This Agreement may be terminated at any time, without cause, by either party upon 30 days written notice to the authorized agent of the City or Diversion Solutions.
- B. This Agreement may be immediately terminated by the City at any time if the City determines that Diversion Solutions is acting, or has acted at any time during the term of this Agreement, in violation of state or federal law.

11. Amendments or Material Modifications - All amendments or modifications to this Agreement must be in writing and approved by both parties.

12. No City Obligation - Diversion Solutions and Participants who participate in this program fully understand that the Program is a public service, and the City is held harmless and has no liability to make recovery or obligation to take criminal action against Participant(s).

13. Criminal Action – Full cancellation of the citation which supported participation in the diversion program is not guaranteed until successful completion of the entire program. Diversion Solutions acknowledges, and will advise all Participants that, the City Attorney's Office may reinstate the citation which brought the Participant(s) to the program if the Participant fails to participate or complete the program.

14. Hold Harmless and Indemnification:

- A. Diversion Solutions shall save and protect, hold harmless, indemnify and defend the City, its officers and employees against any and all claims, causes of action, suits, liabilities, losses, charges, damages or costs and expenses arising from, or allegedly arising from, or resulting directly or indirectly from any professional errors and omissions and/or negligent or willful acts or omissions of Diversion Solutions and its employees and agents, in the performance of this Agreement.

15. Independent Contractor:

- A. Nothing contained in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of employer/employee between the parties. Diversion Solutions shall at all times remain an independent contractor with respect to the services to be provided under this agreement.

- B. The City shall be exempt from payment of all unemployment insurance, FICA, retirement, life and medical insurance, and workers' compensation insurance for any and all of Diversion Solutions employees and agents. Payment of insurance premiums, tax withholding, and all other benefits are strictly Diversion Solutions' responsibility.

16. **Subcontractor** - Diversion Solutions shall not subcontract any portion of the work to be performed under this Agreement without prior written approval of City. Diversion Solutions reserves the right to assign this agreement with written City approval.
17. **Data Practice** - Diversion Solutions agrees to comply with the Minnesota Government Data Practices Act and all other applicable state and federal laws relating to data privacy or confidentiality. Diversion Solutions will immediately report to the department head signing this agreement any request from a third party for information relating to this agreement. The City agrees to promptly respond to inquiries from Diversion Solutions concerning data request. DIVERSION SOLUTIONS agrees to hold the City, its officers and employees harmless from any claims resulting from the Contractor's unlawful disclosure or use of data protected under state and federal laws.
18. **Compliance with the Law** - Diversion Solutions agrees to abide by the requirements and regulations of The Americans with Disabilities Act of 1990 (ADA), the Minnesota Human Rights Act (Minn. Stat. C.363), the City Civil Rights Ordinance (Ch. 139), and Title VII of the Civil Rights Act of 1964. These laws deal with discrimination based on race, gender, disabilities, religion, and with sexual harassment. The City agrees to promptly supply all necessary clarifications. Violation of any of the above can lead to the termination of this Agreement.
19. **Entire Agreement** - This entire Agreement supersedes any and all other Agreements, either oral or written, between the parties hereto with respect to the subject matter hereof, and contains all of the Agreements between the parties with respect to said matter. Each party to this Agreement acknowledges that no representations, inducements, promises, or Agreements, oral or otherwise, have been made by either party which are not embodied herein, and that no other Agreements, statements, or promises not contained within this Agreement shall be valid or binding. All provisions contained within this Agreement shall be valid or binding. The laws of Minnesota and the United States of America shall govern all provisions within this Agreement.
20. **Audits and Inspections** - The City Attorney's office or designated representative or other governmental agency exercising regulatory function over the City's business activities, while exercising reasonable, non-disruptive procedures, may inspect Diversion Solutions records at any time.
21. **Notice** - Any notice to be given hereafter by either party to the other, shall be in writing and may be affected by personal delivery, or by registered mail, return receipt requested, addressed to the proper party, at the following addresses:

West St. Paul City Attorney's Office
633 Concord St S
#400
South St Paul, MN 55075
Attn: City Attorney

Diversion Solutions, LLC
415 Main Street
Red Wing, MN 55066
Attn: Scott Adkisson

22. **Insurance** - Diversion Solutions and or its subcontractors agree to provide and maintain, at its own cost and at all times during its performance under this contract until completion of the work, such liability insurance coverage as is set forth below, and to otherwise comply with the provisions that follow:
- A. **Workers' Compensation:** Workers' Compensation insurance in compliance with all applicable statutes.
- B. **Auto Insurance** - Owned and unowned
- C. **General Liability:** "Commercial General Liability Insurance" (Insurance Service Office policy form title), or equivalent policy form, providing coverage on an "occurrence," rather than on a claims made basis, the policy for which shall include, but not limited to, coverage for bodily injury, property damage, personal injury, contractual liability (applying to this contract), Independent Contractors, and Products-Completed Operations Liability. Coverage for explosions, collapse and underground hazards shall not be included.
- Such a policy shall name the City as an additional insured thereunder, and shall apply on a primary basis with respect to any similar insurance maintained by the City, which other insurance of the City, if any, shall apply in excess of Diversion Solutions insurance and not contributed therewith. Diversion Solutions agrees

to maintain Products-Complete Operations coverage on a continuing basis for a period of at least two years after date of completion

Such Commercial General Liability insurance policy shall provide a combined single limit in the amount of at least \$2,000,000 (two million) Each Occurrence, applying to liability for bodily injury and property damage, and a combined single limit of at least the same amount applying to liability for Personal Injury and Advertising Injury. Such minimum limits may be satisfied by the limit afforded under Firm's Commercial General Liability Insurance Policy, or by such Policy in combination with limits afforded by an Umbrella or Excess Liability Policy (or policies), provided that the coverage afforded under any such Umbrella or Excess Policy is at least in all material respects as broad as that afforded by the underlying Commercial Liability Policy, and further that the City is included as an additional insured thereunder.

Such Commercial General Liability Policy and Umbrella or Excess Liability Policy (or policies) may provide aggregate limits for some or all of the coverage afforded thereunder, so long as such aggregated limits are not at any time during which such coverage is required to be maintained hereunder reduced to less than the required Each Occurrence limit stated above, and further, that the Umbrella or Excess Liability provides from the point that such aggregate limits in the underlying Commercial General Liability Policy become reduced or exhausted. An Umbrella or Excess Liability Policy which "drops down" to respond immediately over reduced underlying limits, or in place of exhausted underlying limits, but subject to a deductible or "retention" amount, shall be acceptable in this regard so long as such deductible or retention amount does not cause the firm total deductibles or retention for Each Occurrence to exceed \$10,000.

D. Professional Liability: Professional or "Error & Omissions"

Liability Insurance in the amount of at least \$1,000,000 Each Occurrence (or "Wrongful Act" or equivalent) and if applicable, Aggregate, covering Diversion Solutions Liability for negligent acts, errors, or omissions in the performance of professional services in connection with this Agreement. Diversion Solutions Professional Liability Insurance may afford coverage on an occurrence basis or on a claims basis. It is, however, acknowledged and agreed by Diversion Solutions, that under claims-made coverage, changes in insurers or in insurance policy forms could result in the impairment of the liability insurance protection intended for the City hereunder. Diversion Solutions therefore agrees that it will not seek or voluntarily accept any such change in its Professional Liability Insurance coverage if such impairment of the protection for the City could result; and further, that it will exercise its right under any Extended Reporting Period ("tail coverage") or similar claims-made policy option if necessary or appropriate to avoiding impairment of such protection.

Diversion Solutions further agrees that it will, throughout the entire period of 2 years, keep required coverage and for an additional period of two (2) years following completion of this agreement, immediately: (a) advise the City of any intended or pending change in Professional Liability insurance or in policy forms, and provide the City with all pertinent information that the City may reasonably request to determine compliance with this paragraph; and (b) advise the City of any claims or threat of claims that might reasonably be expected to reduce the amount of such insurance remaining available for the protection of the City.

IN WITNESS WHEREOF, the parties have executed the Agreement as of the date first written above

Diversion Solutions, LLC

By _____
(Scott Adkisson - President)

City of West St. Paul

By _____
(Mayor)

By _____
(City Manager)

Exhibit A

2009

Sec. 4. LICENSE REINSTATEMENT DIVERSION PILOT PROGRAM.

11.11 Subdivision 1. Establishment. An eligible city may establish a license reinstatement
11.12 diversion pilot program for holders of class D drivers' licenses who have been charged
11.13 with violating Minnesota Statutes, section 171.24, subdivision 1 or 2, but have not yet
11.14 entered a plea in the proceedings. An individual charged with driving after revocation
11.15 under Minnesota Statutes, section 171.24, subdivision 2, is eligible for diversion only if
11.16 the revocation was due to a violation of Minnesota Statutes, section 169.791; 169.797;
11.17 169A.52; 169A.54; or 171.17, subdivision 1, paragraph (a), clause (6). An individual
11.18 who is a holder of a commercial driver's license or who has committed an offense in a
11.19 commercial motor vehicle is ineligible for participation in the diversion pilot program.

11.20 Subd. 2. Eligible cities. Each of the cities of Duluth, St. Paul, South St. Paul,
11.21 West St. Paul, and Inver Grove Heights is eligible to establish the license reinstatement
11.22 diversion pilot program within its city. The commissioner of public safety may permit
11.23 other cities to establish license reinstatement diversion pilot programs within their cities.

11.24 Subd. 3. Contract. Notwithstanding any law or ordinance to the contrary, an
11.25 eligible city may contract with a third party to create and administer the diversion program.

11.26 Subd. 4. Diversion of individual. A prosecutor for a participating city may
11.27 determine whether to accept an individual for diversion, and in doing so shall consider:
11.28 (1) whether the individual has a record of driving without a valid license or other
11.29 criminal record, or has previously participated in a diversion program;
11.30 (2) the strength of the evidence against the individual, along with any mitigating
11.31 factors; and
11.32 (3) the apparent ability and willingness of the individual to participate in the
11.33 diversion program and comply with its requirements.

11.34 Subd. 5. Diversion driver's license. (a) Notwithstanding any law to the contrary,
11.35 the commissioner of public safety may issue a diversion driver's license to a person who
12.1 is a participant in a pilot program for diversion, following receipt of an application and
12.2 payment of:

12.3 (1) the reinstatement fee under Minnesota Statutes, section 171.20, subdivision 4, by
12.4 a participant whose driver's license has been suspended;
12.5 (2) the reinstatement fee under Minnesota Statutes, section 171.29, subdivision 2,
12.6 paragraph (a), by a participant whose driver's license has been revoked under Minnesota
12.7 Statutes, section 169.791; 169.797; or 171.17, subdivision 1, paragraph (a), clause (6); or
12.8 (3) the reinstatement fee under Minnesota Statutes, section 171.29, subdivision 2,
12.9 paragraph (a), by a participant whose driver's license has been revoked under Minnesota
12.10 Statutes, section 169A.52 or 169A.54. The reinstatement fee and surcharge, both of which
12.11 are provided under Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), also
12.12 must be paid during the course of, and as a condition of, the diversion program.
12.13 The diversion driver's license may bear restrictions imposed by the commissioner suitable
12.14 to the licensee's driving ability or other restrictions applicable to the licensee as the
12.15 commissioner may determine to be appropriate to assure the safe operation of a motor
12.16 vehicle by the licensee.

12.17 (b) Payments by participants in the diversion program of the reinstatement fee and
12.18 surcharge under Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), must be
12.19 applied first toward payment of the reinstatement fee, and after the reinstatement fee has
12.20 been fully paid, toward payment of the surcharge. Each payment that is applied toward
12.21 the reinstatement fee must be credited as provided in Minnesota Statutes, section 171.29,
12.22 subdivision 2, paragraph (b), and each payment that is applied toward the surcharge must
12.23 be credited as provided in Minnesota Statutes, section 171.29, subdivision 2, paragraphs
12.24 (c) and (d).

12.25 Subd. 6. **Components of program.** (a) At a minimum, the diversion program
12.26 must require individuals to:
12.27 (1) successfully attend and complete, at the individual's expense, educational classes
12.28 that provide, among other things, information on drivers' licensure;
12.29 (2) pay, according to a schedule approved by the prosecutor, all required fees,
12.30 fines, and charges, including applicable statutory license reinstatement fees and costs
12.31 of participation in the program;
12.32 (3) comply with all traffic laws; and
12.33 (4) demonstrate compliance with vehicle insurance requirements.
12.34 (b) An individual who is accepted into the pilot program is eligible to apply for a
12.35 diversion driver's license.

13.1 Subd. 7. **Termination of participation in diversion program.** (a) An individual's
13.2 participation in the diversion program may terminate when:
13.3 (1) during participation in the program, the individual is guilty of a moving traffic
13.4 violation or failure to provide vehicle insurance;
13.5 (2) the third-party administrator of the diversion program informs the court and the
13.6 commissioner of public safety that the individual is no longer satisfying the conditions
13.7 of the diversion; or
13.8 (3) the third-party administrator informs the court, the prosecutor, and the
13.9 commissioner of public safety that the individual has met all conditions of the diversion
13.10 program, including, at a minimum, satisfactory fulfillment of the components in
13.11 subdivision 6, whereupon the court shall dismiss the charge or the prosecutor shall decline
13.12 to prosecute.
13.13 (b) Upon termination of an individual's participation in the diversion program, the
13.14 commissioner shall cancel the individual's diversion driver's license.
13.15 (c) The original charge against the individual of violation of Minnesota Statutes,
13.16 section 171.24, may be reinstated against an individual whose participation in the
13.17 diversion program terminates under paragraph (a), clause (1) or (2).
13.18 (d) The commissioner shall reinstate the driver's license of an individual whose
13.19 participation in the diversion program terminates under paragraph (a), clause (3).

13.20 Subd. 8. **Report.** (a) By February 1, 2011, the commissioner of public safety and
13.21 each eligible city that participates in the diversion program shall report to the legislative
13.22 committees with jurisdiction over transportation and the judiciary concerning the results
13.23 of the program. The report must be made electronically and available in print only upon
13.24 request. The report must include, without limitation, the effect of the program on:
13.25 (1) recidivism rates for participants in the diversion pilot program;
13.26 (2) the number of unlicensed drivers who continue to drive in violation of Minnesota
13.27 Statutes, section 171.24;
13.28 (3) payment of the fees and fines collected in the diversion pilot program to cities,
13.29 counties, and the state;
13.30 (4) educational support provided to participants in the diversion pilot program; and
13.31 (5) the total number of participants in the diversion pilot program and the number of
13.32 participants who have terminated from the pilot program under subdivision 7, paragraph
13.33 (a), clauses (1) to (3).
13.34 (b) The report must include recommendations regarding the future of the program
13.35 and any necessary legislative changes.

13.36 Subd. 9. **Sunset.** The pilot project under this section expires June 30, 2011.

14.1 **EFFECTIVE DATE.** This section is effective July 1, 2009.

Exhibit B

2011

CHAPTER 87--H.F.No. 387

An act

relating to drivers' licenses; allowing counties to participate in driver's license reinstatement diversion pilot program; extending diversion pilot program; amending Laws 2009, chapter 59, article 3, section 4, as amended.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Laws 2009, chapter 59, article 3, section 4, as amended by Laws 2010, chapter 197, section 1, is amended to read:

Sec. 4. LICENSE REINSTATEMENT DIVERSION PILOT PROGRAM.

Subdivision 1. **Establishment.** An eligible city or county may establish a license reinstatement diversion pilot program for holders of class D drivers' licenses who have been charged with violating Minnesota Statutes, section 171.24, subdivision 1 or 2, but have not yet entered a plea in the proceedings. An individual charged with driving after revocation under Minnesota Statutes, section 171.24, subdivision 2, is eligible for diversion only if the revocation was due to a violation of Minnesota Statutes, section 169.791; 169.797; 169A.52; 169A.54; or 171.17, subdivision 1, paragraph (a), clause (6). An individual who is a holder of a commercial driver's license or who has committed an offense in a commercial motor vehicle is ineligible for participation in the diversion pilot program.

Subd. 2. **Eligible cities and counties.** Each of the cities of Duluth, St. Paul, South St. Paul, West St. Paul, and Inver Grove Heights is eligible to establish the license reinstatement diversion pilot program within its city. The commissioner of public safety may permit other cities and counties to establish license reinstatement diversion pilot programs within their cities respective jurisdictions.

Subd. 3. **Contract.** Notwithstanding any law or ordinance to the contrary, an eligible city or county may contract with a third party to create and administer the diversion program.

Subd. 4. **Diversion of individual.** A prosecutor for a participating city or county may determine whether to accept an individual for diversion, and in doing so shall consider:

- (1) whether the individual has a record of driving without a valid license or other criminal record, or has previously participated in a diversion program;
- (2) the strength of the evidence against the individual, along with any mitigating factors; and
- (3) the apparent ability and willingness of the individual to participate in the diversion program and comply with its requirements.

Subd. 5. **Diversion driver's license.** (a) Notwithstanding any law to the contrary, the commissioner of public safety may issue a diversion driver's license to a person who is a participant in a pilot program for diversion, following receipt of an application and payment of:

- (1) the reinstatement fee under Minnesota Statutes, section 171.20, subdivision 4, by a participant whose driver's license has been suspended;
- (2) the reinstatement fee under Minnesota Statutes, section 171.29, subdivision 2, paragraph (a), by a participant whose driver's license has been revoked under Minnesota

Statutes, section 169.791; 169.797; or 171.17, subdivision 1, paragraph (a), clause (6); or (3) the reinstatement fee under Minnesota Statutes, section 171.29, subdivision 2, paragraph (a), by a participant whose driver's license has been revoked under Minnesota Statutes, section 169A.52 or 169A.54. The reinstatement fee and surcharge, both of which are provided under Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), also must be paid during the course of, and as a condition of, the diversion program.

The diversion driver's license may bear restrictions imposed by the commissioner suitable to the licensee's driving ability or other restrictions applicable to the licensee as the commissioner may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) Payments by participants in the diversion program of the reinstatement fee and surcharge under Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), must be applied first toward payment of the reinstatement fee, and after the reinstatement fee has been fully paid, toward payment of the surcharge. Each payment that is applied toward the reinstatement fee must be credited as provided in Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), and each payment that is applied toward the surcharge must be credited as provided in Minnesota Statutes, section 171.29, subdivision 2, paragraphs (c) and (d). After the reinstatement fee and surcharge are satisfied, the participant must pay the program participation fee.

Subd. 6. Components of program. (a) At a minimum, the diversion program must require individuals to:

- (1) successfully attend and complete, at the individual's expense, educational classes that provide, among other things, information on drivers' licensure;
- (2) pay, according to a schedule approved by the prosecutor, all those required fees, fines, and charges that affect the individual's driver's license status, including applicable statutory license reinstatement fees and costs of participation in the program;
- (3) comply with all traffic laws; and
- (4) demonstrate compliance with vehicle insurance requirements.

(b) An individual who is accepted into the pilot program is eligible to apply for a diversion driver's license.

Subd. 7. Termination of participation in diversion program. (a) An individual's participation in the diversion program may terminate when:

- (1) during participation in the program, the individual is guilty of a moving traffic violation or failure to provide vehicle insurance;
- (2) the third-party administrator of the diversion program informs the court and the commissioner of public safety that the individual is no longer satisfying the conditions of the diversion; or
- (3) the third-party administrator informs the court, the prosecutor, and the commissioner of public safety that the individual has met all conditions of the diversion program, including, at a minimum, satisfactory fulfillment of the components in subdivision 6, whereupon the court shall dismiss the charge or the prosecutor shall decline to prosecute.

(b) Upon termination of an individual's participation in the diversion program, the commissioner shall cancel the individual's diversion driver's license.

(c) The original charge against the individual of violation of Minnesota Statutes,

section 171.24, may be reinstated against an individual whose participation in the diversion program terminates under paragraph (a), clause (1) or (2).

(d) The commissioner shall reinstate the driver's license of an individual whose participation in the diversion program terminates under paragraph (a), clause (3).

Subd. 8. **Report.** (a) By February 1, 2013, the commissioner of public safety and each eligible city and county that participates in the diversion program shall report to the legislative committees with jurisdiction over transportation and the judiciary concerning the results of the program. The report must be made electronically and available in print only upon request. The report must include, without limitation, the effect of the program on:

- (1) recidivism rates for participants in the diversion pilot program;
- (2) the number of unlicensed drivers who continue to drive in violation of Minnesota Statutes, section 171.24;

~~f11~~ payment of the fees and fines collected in the diversion pilot program to cities, counties, and the state;

~~f4111~~ educational support provided to participants in the diversion pilot program; and

~~ffi~~ the total number of participants in the diversion pilot program and the number of participants who have terminated from the pilot program under subdivision 7, paragraph (a), clauses (1) to (3).

(b) The report must include recommendations regarding the future of the program and any necessary legislative changes.

Subd. 9. **Sunset.** A city or county participating in this pilot program may accept an individual for diversion into the pilot program until June 30,

2013. The third party administering the diversion program may collect and disburse fees collected pursuant to subdivision 6, paragraph (a), clause (2), through December 31, 2-0-1-2-2014, at which time the pilot program under this section expires.

EFFECTIVE DATE. This section is effective the day following final enactment. Presented to the governor May 24, 2011

Signed by the governor May 27, 2011, 10:28 a.m.

Exhibit C

2013

CHAPTER 127– S.F.No. 1270

An act relating to transportation; amending various provisions related to transportation and public safety policies, including highway signs, trunk highway routes, state-aid systems, motor vehicle registration and license plates, record retention, motor vehicle dealers, pupil transportation, bicycles, motor vehicle weight and equipment, disability parking, drivers' licenses and senior identification cards, federal law conformity, agency organization, commercial vehicle regulations, railroads, land conveyance, transit and transit planning, operations, and accessibility; amending Minnesota Statutes 2012, sections 160.21, subdivision 6; 160.80, subdivisions 1, 1a, 2; 161.04, subdivision 5; 161.115, subdivision 229, by adding a subdivision; 161.1231, subdivision 8; 161.44, by adding a subdivision; 162.02, subdivision 3a; 162.09, subdivision 3a; 162.13, subdivision 2; 168.017, subdivisions 2, 3; 168.053, subdivision 1; 168.123, subdivision 2; 168.183, subdivision 1; 168.187, subdivision 17; 168.27, subdivisions 10, 11, by adding a subdivision; 168A.153, subdivisions 1, 2, 3, by adding a subdivision; 168B.15; 169.011, subdivision 71; 169.18, subdivisions 4, 7; 169.19, subdivision 1; 169.222, subdivisions 2, 4, 6, 7; 169.34, subdivision 1; 169.346, subdivision 2, by adding a subdivision; 169.443, subdivision 9; 169.447, subdivision 2; 169.454, subdivision 12; 169.68; 169.824, subdivision 2; 171.01, subdivision 49b; 171.07, subdivisions 3a, 4; 174.02, by adding a subdivision; 174.03, subdivision 1d; 174.24, subdivision 5a; 174.632; 174.636; 219.17; 219.18; 219.20; 221.0314, subdivisions 2, 3a, 9a; 398A.04, by adding a subdivision; Laws 2009, chapter 59, article 3, section 4, subdivision 9, as amended; proposing coding for new law in Minnesota Statutes, chapters 171; 174; repealing Minnesota Statutes 2012, sections 168.094, subdivision 5; Minnesota Rules, parts 8820.3300, subpart 2; 8835.0330, subpart 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Sec. 60. Laws 2009, chapter 59, article 3, section 4, subdivision 9, as amended by Laws 2010, chapter 197, section 1, and Laws 2011, chapter 87, section 1, subdivision 9, is amended to read:

Subd. 9. **Sunset.** A city or county participating in this pilot program may accept an individual for diversion into the pilot program until June 30, ~~2013~~ 2017. The third party administering the diversion program may collect and disburse fees collected pursuant to subdivision 6, paragraph (a), clause (2), through December 31, ~~2014~~ 2018, at which time the pilot program under this section expires.

EFFECTIVE DATE. This section is effective the day following final enactment.

HF470 THIRD ENGROSSMENT

REVISOR

KLL

H0470-3

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES
NINETEETH SESSION

H. F. No. 470

01/23/2017 Authored by Cornish and Johnson, B.,
The bill was read for the first time and referred to the Committee on Public Safety and Security Policy and Finance
03/01/2017 Adoption of Report: Re-referred to the Committee on Ways and Means
03/14/2017 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time
05/12/2017 Calendar for the Day, Amended
Read Third Time as Amended
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments
05/18/2017 Returned to the House as Amended by the Senate
Refused to concur and a Conference Committee was appointed
05/22/2017 Read Third Time as Amended by Conference and repassed by the House
Read Third Time as Amended by Conference and repassed by the Senate
05/26/2017 Presented to Governor
05/30/2017 Governor Approval

Sec. 27. Laws 2009, chapter 59, article 3, section 4, subdivision 3, as amended by Laws 2011, chapter 87, section 1, subdivision 3, is amended to read:

Subd. 3. **Contract.** Notwithstanding any law or ordinance to the contrary, an eligible city or county may contract with a third party to create and administer the diversion program. A third party administering the program under this section must annually provide to the city or county a copy of an annual independent audit. At a minimum, the audit shall include the following:

- (1) the amount charged for program fees;
- (2) the total number of participants in the pilot program;
- (3) the total amount of money collected from participants in the pilot program;
- (4) the total amount of money, detailed by category, paid or applied to reinstatement fees, surcharges, criminal and traffic fines, and program fees;
- (5) the number of participants who successfully completed the pilot program in the previous year;
- (6) the number of participants terminated from the pilot program under subdivision 7, paragraph (a), clauses (1) to (3);
- (7) the reimbursement policy for all payments listed under clause (4); and
- (8) the amount of all payments listed under clause (4) retained from participants who were terminated from the program.

The third party administering the program must pay the cost of the audit.

Sec. 28. Laws 2009, chapter 59, article 3, section 4, subdivision 8, as amended by Laws 2011, chapter 87, section 1, subdivision 8, is amended to read:

Subd. 8. **Report.** (a) By February 1, 2013 2019, the commissioner of public safety and each eligible city and county that participates in the diversion program shall report to the legislative committees with jurisdiction over transportation and the judiciary concerning the results of the program. ~~The report must be made electronically and available in print only upon request.~~ At a minimum, the report must include, without limitation, the effect of the program on:

- (1) recidivism rates for participants in the diversion pilot program;
 - (2) ~~payment of the information for reinstatement fees, surcharges, and criminal fines collected in the diversion pilot program to cities, counties, and the state;~~
 - (3) educational support provided to participants in the diversion pilot program; and
 - (4) the total number of participants in the diversion pilot program and;
 - (5) the number of participants who have terminated from the pilot program under subdivision 7, paragraph (a), clauses (1) to (3); and
 - (6) the names of all third-party program administrators and their program fee refund policy, and, for each administrator the amount charged for program fees, and the amount of program fees retained from participants who have terminated from the program.
- (b) The report must include recommendations regarding the future of the program and any necessary legislative changes.

Sec. 29. Laws 2009, chapter 59, article 3, section 4, subdivision 9, as amended by Laws 2010, chapter 197, section 1, Laws 2011, chapter 87, section 1, subdivision 9, and Laws 2013, chapter 127, section 60, is amended to read:

Subd. 9. **Sunset.** A city or county participating in this pilot program may accept an individual for diversion into the pilot program until June 30, 2017 2019. The third party administering the diversion program may collect and disburse fees collected pursuant to subdivision 6, paragraph (a), clause (2), through December 31, 2018 2020, at which time the pilot program under this section expires.

On Motion of Clpn.

Iago

Seconded by Clpn.

Viteali

RESOLUTION NO. 46 17-44

RESOLUTION AMENDING THE GENERAL SERVICE SALARIED EMPLOYEE PAY PLAN
ADDING THE POSITION OF PROJECT ENGINEER

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL
OF THE CITY OF WEST SAINT PAUL, MINNESOTA:

Effective 06-26-2017, the General Services Salaried Employees Pay Plan will be as follows:

Biweekly	1/1/2016		1/1/2017	
	Minimum	Maximum	Minimum	Maximum
Assistant CDD/City Planner	\$2,979.83	\$3,724.78	\$ 3,054.32	\$ 3,817.90
Assistant City Manager/HR Director	\$3,539.61	\$4,424.52	\$ 3,628.10	\$ 4,535.13
Assistant Park and PW Supt	\$2,511.93	\$3,139.91	\$ 2,574.73	\$ 3,218.41
Project Engineer			\$ 2,623.00	\$ 3,303.81
Assistant Park and Recreation Director	\$2,895.52	\$3,619.41	\$ 2,967.91	\$ 3,709.89
Building Official	\$2,773.18	\$3,466.47	\$ 3,013.08	\$ 3,766.35
City Manager	\$4,522.02	\$5,652.53	\$ 4,635.07	\$ 5,793.84
Community Development Director	\$3,576.92	\$4,471.14	\$ 3,666.34	\$ 4,582.92
Finance Director	\$3,592.18	\$4,490.23	\$ 3,681.99	\$ 4,602.49
Information Technology Manager	\$2,965.05	\$3,706.32	\$ 3,039.18	\$ 3,798.97
Parks and Public Works Director	\$3,698.81	\$4,623.51	\$ 3,791.28	\$ 4,739.09
Parks and PW Superintendent	\$2,970.96	\$3,713.70	\$ 3,045.23	\$ 3,806.54
Police Chief	\$3,695.05	\$4,618.81	\$ 3,787.42	\$ 4,734.28
Police Lieutenant	\$3,237.62	\$4,047.03	\$ 3,318.56	\$ 4,148.20

The City Manager may hire employees at any rate between the minimum and maximum pay stated for the job classification based on relevant factors. The City Manager will determine the pay for each employee based on the employee's performance in the job and on the basis of other job relevant factors.

Upon successful completion of the one-year probationary period, an employee is eligible for up to a 5% pay increase. The employee is eligible for up to a 5% wage step once per year on their anniversary date until they reach the maximum pay for their job class. Employees who are promoted from one City position to another will normally receive a pay increase at the time of promotion and will be eligible for future increases at one year intervals until they reach the maximum pay for their job class. Step increases are contingent upon a successful performance review and the recommendation of the employee's supervisor, department head and approval by the City Manager.

Adopted by the City Council of the City of West St. Paul on June 26, 2017

Ayes: 6

Nays: 0

Attest:

Jenny Halverson, Mayor

Chantal Doriott, City Clerk

CITY OF WEST ST. PAUL
DAKOTA COUNTY / STATE OF MINNESOTA

RESOLUTION NO. 17-45

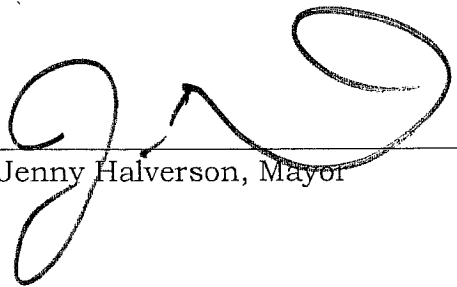
RESOLUTION ACCEPTING DONATIONS

WHEREAS, Butch "Chap" Millett has donated \$100 toward the cost of the Police Department Police Canine Program; and


NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council accepts the above described donation and authorizes City staff to expend these funds in the manner described by this person or organization.

Adopted by the City Council of the City of West St. Paul this 26th day of June, 2017.

Ayes: 6 Nays: 0



Jenny Halverson, Mayor

Attest: 

Chantal Doriott, City Clerk

**City of West St. Paul
Dakota County, Minnesota**

RESOLUTION NO. 17-46

**RESOLUTION IMPOSING SANCTIONS UPON
RETAIL INTOXICATING LIQUOR LICENSE HOLDER
CHIPOTLE MEXICAN GRILL OF COLORADO**

WHEREAS, state law authorizes a city council to impose sanctions upon the holder of a retail intoxicating liquor license who has failed to comply with an applicable statute, upon a hearing duly noticed, and the opportunity for the license holder to be heard;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of West St. Paul, Minnesota, as follows:

FINDINGS

Notice of a hearing for the imposition of a sanction for a liquor violation was duly given to the intoxication license holder for the premises at 1857 Robert Street, West St. Paul, Minnesota on June 1, 2017, pursuant to Minnesota Statutes, sections 14.57 to 14.69.

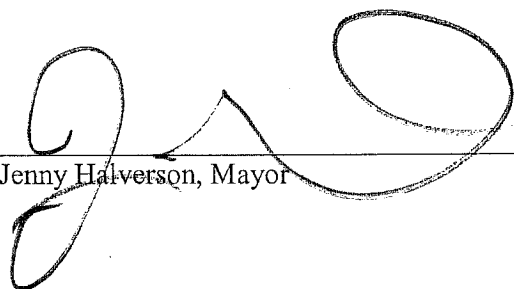
- 1.01 The hearing was held on Monday, June 26, 2017, in the Council Chambers in City Hall, located at 1616 Humboldt Avenue, West St. Paul, MN.
- 1.02 At the hearing all persons who appeared and desired to be heard, were heard.

CONCLUSION

- 2.01 Based upon the evidence presented at the hearing, the City Council concludes that the retail license holder for the premises at 1857 Robert Street (Chipotle Mexican Grill of Colorado) failed to comply with an applicable statute in that an alcoholic beverage was sold to an underage person on April 18, 2017, in the licensed establishment.
- 2.02 The following sanctions are imposed for the violation:
 - a) A \$500 civil penalty is imposed against the license holder of which \$300 is stayed. In lieu of the stayed penalty, the license holder may conduct employee training, up-grade its cash register software to improve age verification when purchasing alcohol and/or conduct modifications or enhancements to the establishment's security system that meet the specifications or requirements of the police department, as long as these alternatives, at a minimum, meet the original penalty;
 - b) The licensee must pay the remaining \$200 civil penalty within 30 days of this resolution;
 - c) While holding a City-issued alcohol license, a representative from this establishment will attend any future City-sponsored alcohol compliance training when notified;
 - d) The license holder will establish an age verification policy for the establishment's employees and provide the police department with a copy of this policy within 30 days of this resolution; and

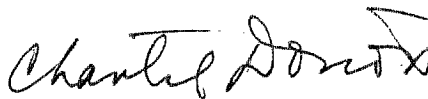
- e) While holding a City-issued alcohol license, the license holder must document and maintain the signatures and dates of any alcohol training their employee's receive, including being advised of the policy cited above. This list must be up kept to date and made available to the police department upon a reasonable request.

Adopted by the City Council of the City of West St. Paul this 26th day of June, 2017.



Jenny Halverson, Mayor

Attest:



Chantel Doriott, City Clerk

**City of West St. Paul
Dakota County, Minnesota**

RESOLUTION NO. 17- 47

**RESOLUTION IMPOSING SANCTIONS UPON
RETAIL INTOXICATING LIQUOR LICENSE HOLDER
MORELO'S MEXICAN RESTURANT**

WHEREAS, state law authorizes a city council to impose sanctions upon the holder of a retail intoxicating liquor license who has failed to comply with an applicable statute, upon a hearing duly noticed, and the opportunity for the license holder to be heard;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of West St. Paul, Minnesota, as follows:

FINDINGS

Notice of a hearing for the imposition of a sanction for a liquor violation was duly given to the intoxication license holder for the premises at 360 Bernard street West, West St. Paul, Minnesota on June 1, 2017, pursuant to Minnesota Statutes, sections 14.57 to 14.69.

- 1.01 The hearing was held on Monday, June 26, 2017 , in the Council Chambers in City Hall, located at 1616 Humboldt Avenue, West St. Paul, MN.
- 1.02 At the hearing all persons who appeared and desired to be heard, were heard.

CONCLUSION

- 2.01 Based upon the evidence presented at the hearing, the City Council concludes that the retail license holder for the premises at 360 Bernard Street West (Morelo's Mexican restaurant) violated the following requirements:
 - a. Licensed Required. No person or organization may directly or indirectly upon any pretense or by any device, manufacture, import, sell, exchange, barter, dispose of, charge for possession or keep for sales any intoxicating liquor without a license pursuant - 112.02(b)
 - b. Non-eligible Applicant for a Liquor License. A person must accurately complete a city license application and the applicant must be a US citizen or a resident alien. 110.03 (C)
 - c. Minors. A licensee may not sell or furnish liquor to any person under the age of 21 - 112(D)
 - d. Consumption Time Limitations. No on sale licensee or employee or agent of the licensee may person or allow any person to consume intoxicating liquor within the licensed premises more than 20 minutes after the time of sale of intoxicating liquors on the premises is prohibited - 112(F)(2)
 - e. Removal of Containers. No licensee may permit any glass, bottle, or other container containing intoxicating liquor in an quantity to remain upon any table, bar, stool or other

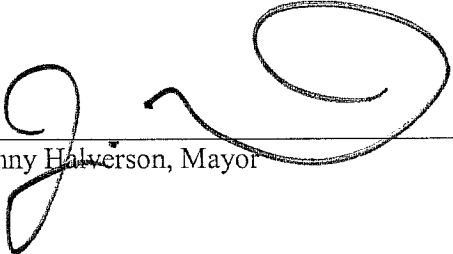
place where customers are served, more than 30 minutes after the time when a sale can legally occur - 112(F)(4)

- f. Closing. Except as otherwise provided in this section, no person, other than a licensee's cleaning or maintenance personnel, or licensed contractor related to a building project or employees actually engaging in the performance of their duties may be in the licensed premises between 30 minutes after the time when a sale can legally occur and 4:00 AM - 112(F)(4)
- g. Sales of Intoxicating Liquor. A licensee who is not licensed to sell intoxicating liquor may not sell intoxicating liquors on a licensed premises or serve any liquids for the purpose of mixing with intoxicating liquors. The presence of intoxicating liquors on the premises of a licensee will be prima facie evidence that intoxicating liquor is being permitted to be consumed contrary to this subchapter - 112.23(E)
- h. Alcohol Sales after 1:00 am. No licensee may sell intoxicating liquor or 3.2 percent malt liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the commissioner - 340A.504
- i. Sales to Obviously Intoxicated Persons. No person may sell, give, furnish, or in any way procure for another alcoholic beverage for the use of an obviously intoxicated person. (340A.502 & 340A.702).

2.02 The following sanctions are imposed for the violation:

- a) Revocation of all alcohol licenses issued to Juan Cruz, Juan Cruz-Rodriguez and/or Morelo's Mexican Restaurant.

Adopted by the City Council of the City of West St. Paul this 26th day of June, 2017.



Jenny Halverson, Mayor

Attest:



Chantel Doriott, City Clerk

**CITY OF WEST ST. PAUL
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. 17- 48

**A RESOLUTION APPROVING A CONDITIONAL
USE PERMIT TO ALLOW ADULT DAY CARE
IN AN II DISTRICT AT 1635 MARTHALER LN.
DARTS.**

WHEREAS, a Conditional Use Permit application has been submitted to the City for properties legally described as:

S 300 FT OF E 329.48 FT OF N ½ OF NE ¼ OF SW ¼ EX E 30 FT & EX PT W OF
LINE BEG INT W LINE OF E 265 FT OF N ½ NE ¼ OF SW ¼ & N LINE SAID SW
¼ S 0D17M45S E 282.41 FT S 24D32M22S W 153.52 FT TO W LINE OF E 329.48
FT OF N 1/2 OF NE ¼ OF SW ¼ S 00D17M45S E 233.54 FT TO S LINE SAID N 1/2
OF NE ¼ OF SW ¼ & THERE

WHEREAS, a public hearing concerning the Conditional Use Permit was held before the West St. Paul Planning Commission on June 20, 2017; and

WHEREAS, the West St. Paul Planning Commission has recommended that the City Council of West St. Paul approve the Conditional Use Permit.

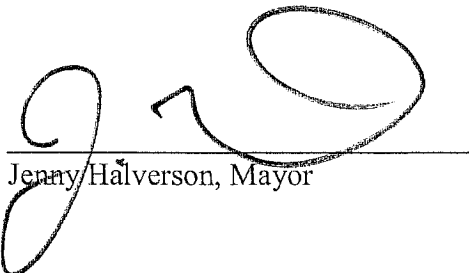
NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF WEST ST. PAUL that the Conditional Use Permit for 1635 Marthaler Ln. requested by DARTS is hereby approved subject to the following conditions:

1. The applicant shall apply for applicable building and sign permits for the tenant finish.
2. The applicant shall formally designate the parking stalls on the West side of the 1635 building as bus parking only.

Passed by the City Council of the City of West St. Paul this 26th day of June, 2017.

Ayes: 6 Nays: 0

Attest:



Jenny Halverson, Mayor



Chantal Doriott, City Clerk

Ord. No. 17-07

**CITY OF WEST ST. PAUL
DAKOTA COUNTY, MINNESOTA**

**AN ORDINANCE AMENDING
WEST ST. PAUL ZONING ORDINANCE SECTIONS
153.004 & 153.188 REGARDING ALLOWING
AUTOMOTIVE DETAILING IN THE B4 DISTRICT**

The City Council of West St. Paul does ordain:

SECTION 1. AMENDMENT. West St. Paul Zoning Ordinance Section 153.004 is hereby amended by adding the following definition:

AUTOMOTIVE DETAILING. The performance of thorough cleaning, restoration, and finishing of an automobile, both inside and out, to produce a show-quality level of detail. Auto detailing does not include paintwork or body repair.

SECTION 2. AMENDMENT. West St. Paul Zoning Ordinance Section 153.188 is hereby amended as follows:

153.188 CONDITIONAL USES.

Within the B-4 Shopping Center District, no structure or land shall be used for the following uses except by conditional use permit:

- (A) Any conditional use regulated in the B-3 District, § 153.171 with the exception of car washes, motor fuel stations, and vehicle repair, minor;
- (B) Amusement establishments;
- (C) Automatic vending devices not enclosed in a structure;
- (D) Discount stores;
- (E) Gun sales and repair;
- (F) Motels, motor hotels and hotels if the site contains less than 600 square feet of area per unit;
- (G) Newspaper and/or magazine stands;
- (H) Used merchandise stores;
- (I) Alternative financial establishments, provided all of the following conditions are met.

(1) The establishment is located at least 800 feet when measured in a straight line from the building in which the establishment is located, to the property line from alternative financial establishments, pawnshops, adult uses, body art establishments, bingo halls, used merchandise stores and discount stores.

(2) The establishment does not use bars, chains or similar security devices that are visible from the public street or sidewalk.

(J) Learning centers, business or trade schools when conducted entirely within a building.

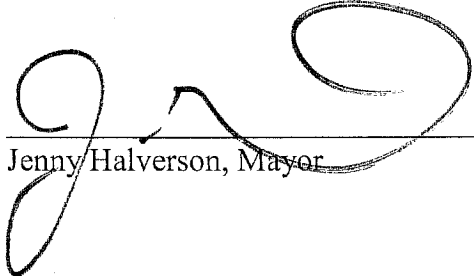
(K) Automotive Detailing provided that the building in which the Use is located is setback a minimum of 400 feet from Robert St. and that the Use does not front Robert St.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this 26th day of June, 2017.

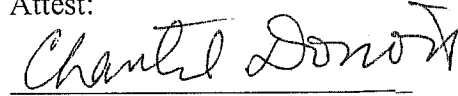
Ayes: 6

Nays: 0



Jenny Halverson, Mayor

Attest:



Chantal Doriott, City Clerk